



# **City of Grand Island**

**Tuesday, January 24, 2012**

**Council Session**

## **Item E5**

**Public Hearing on Acquisition of Public Utility Easement in  
Timberline Second Subdivision (HBCC Timberline, LLC)**

**Staff Contact: John Collins, Public Works Director**

# **Council Agenda Memo**

**From:** Terry Brown, Manager of Engineering Services

**Meeting:** January 24, 2012

**Subject:** Public Hearing on Acquisition of Public Utility Easement in Timberline Second Subdivision (HBCC Timberline, LLC)

**Item #'s:** E-5 & G-8

**Presenter(s):** John Collins, Public Works Director

## **Background**

Nebraska State Statutes stipulate that the acquisition of property requires a public hearing to be conducted with the acquisition approved by the City Council. A public utility easement is needed in the Timberline Second Subdivision as a result of land impacts to the parent parcel caused by the Burlington Northern Santa Fe Railroad double track project through Grand Island. The easement will allow for the construction, operation, maintenance, extension, repair, replacement, and removal of public utilities within the easement.

## **Discussion**

To allow for the Burlington Northern Santa Fe Railroad double track project it is requested that the existing thirty (30) foot wide utility easement be vacated. The new easement will be thirty (30) foot wide and will simply be moved further north to accommodate the railroad project. The easement vacation request is being presented at tonight's council meeting.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council conduct a Public Hearing and approve acquisition of the Easement in Timberline Second Subdivision.

### **Sample Motion**

Move to approve the acquisition of the utility easement in Timberline Second Subdivision.

• THIS SPACE RESERVED FOR REGISTER OF DEEDS •

## **PUBLIC UTILITIES EASEMENT**

HBCC TIMBERLINE, LLC, a Nebraska Limited Liability Company, herein called the Grantor, in consideration of ONE DOLLAR (\$1.00) and other consideration, receipt of which is hereby acknowledged, hereby grants and conveys unto the

CITY OF GRAND ISLAND, NEBRASKA,

a municipal corporation in Hall County, State of Nebraska, herein called the Grantee, a permanent and perpetual easement and right-of-way to construct, operate, maintain, extend, repair, replace, and remove public utilities, including but not limited to, sanitary sewers, storm sewers, water mains, electric utility poles, overhead and underground power lines, manholes, pipelines, surface markers, and other appurtenances, upon, over, along, across, in, underneath and through a tract of land located in Lot Six (6), Timberline 2<sup>nd</sup> Subdivision of the City of Grand Island, Nebraska, more particularly described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF LOT SIX (6), TIMBERLINE 2<sup>ND</sup> SUBDIVISION; THENCE NORTH 02°24'50" WEST A DISTANCE OF 84.39 FEET; THENCE SOUTH 74°59'10" EAST A DISTANCE OF 31.43 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 74°59'10" EAST A DISTANCE OF 901.99 FEET; THENCE SOUTH 89°04'30" WEST A DISTANCE OF 109.24 FEET; THENCE NORTH 74°59'10" WEST A DISTANCE OF 787.54 FEET; THENCE NORTH 02°24'50" WEST A DISTANCE OF 31.44 FEET TO THE POINT OF BEGINNING.

together with the following rights, namely, unrestricted ingress and egress under, over, and across such land for the purpose of exercising the rights herein granted, to excavate and refill ditches and trenches, and the right to clear and keep clear of trees, roots, brush, hedges, undergrowth, and other obstructions from the surface of such tracts interfering with the location, construction, inspection, repair, replacement, removal, and maintenance of such utilities. Any such utilities and appurtenances placed upon, over, and under such tracts of land shall remain the property of the Grantee and may be removed or replaced at any time.

The Grantors, for themselves, their heirs, executors, administrators, successors, and assigns, hereby covenant that no buildings, fences, or structures shall be erected or permitted on said tract and that the easement herein granted shall run with the title to such tract of land and be binding upon the Grantors, their successors and assigns.

DATED: \_\_\_\_\_, 2012

GRANTOR:

HBCC TIMBERLINE, LLC  
A Nebraska Limited Liability Company

BY \_\_\_\_\_  
Kerry McGrath, President

STATE OF NEBRASKA                    )  
  ) ss  
COUNTY OF HALL                    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, before me, the undersigned, a Notary Public in and for said County and State, personally appeared **KERRY MCGRATH, PRESIDENT**, to me known to be the identical person who signed the foregoing Public Utilities Easement and acknowledges the execution thereof to be his voluntary act and deed for the purpose therein expressed.

WITNESS my hand and Notarial Seal the date above written.

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Notary Public



RESENTS, that HEINSON, LLC, a Nebraska Limited Liability Company, upon its return  
we caused some to be surveyed, subdivided, platted and designated as "TIMBERLINE  
y of Grand Island, Nebraska, as shown on the accompanying plat thereof, and do  
the location, construction and maintenance of public service forever, together with the right  
herby prohibiting the planting of trees, bushes and shrubs, or placing other obstructions  
surface of such easements; and that the foregoing subdivision is more particularly described  
rs on this plat, is made with the free consent and in accordance with the desires of the

re affixed my signature hereto at Grand Island, Nebraska, this 5<sup>th</sup> day of May

HEINSON, LLC  
a Nebraska Limited Liability Company

Rick S. Johnson  
Rick S. Johnson, Member

re affixed my signature hereto at Grand Island, Nebraska, this 4<sup>th</sup> day of May

HEINSON, LLC  
a Nebraska Limited Liability Company

K.C. Hehnke  
K.C. Hehnke, Member

for May, 2004, before me, Marilyn A. Paustian, a Notary  
I, personally appeared Rick S. Johnson, Member of HEINSON, LLC, a Nebraska Limited  
ally known to be a Member of said Limited Liability Company and the identical person  
to, and that he did acknowledge the execution thereof to be his voluntary act and  
mpany, and that he was empowered to make the above declaration for and in behalf

a Notariable subscribed my name and affixed my official seal at Grand Island, Nebraska.

9, 2008

Hehnke



for May, 2004, before me, Marilyn A. Paustian, a Notary  
I, personally appeared K.C. Hehnke, Member of HEINSON, LLC, a Nebraska Limited  
ally known to be a Member of said Limited Liability Company and the identical person  
to, and that he did acknowledge the execution thereof to be his voluntary act and  
mpany, and that he was empowered to make the above declaration for and in behalf

a Notariable subscribed my name and affixed my official seal at Grand Island, Nebraska.

9, 2008

Jeff Venter  
Mayor

Paula  
City Clerk

## SURVEYOR'S CERTIFICATE

I hereby certify that on May 1, 2004, I completed an inspection of "TIMBERLINE SECOND SUBDIVISION" in the City of Grand Island, Nebraska, as shown on the plat, blocks, streets, avenues, alleys, easements and other grounds as shown on the accompanying plat thereof, upon well and accurately stated all and marked that was shown on the plat, that each lot bears its own number and that said survey was made in accordance with the laws of the State of Nebraska.

Lee D. Wagner  
Lee D. Wagner, Registered Land Surveyor No. 32





Parcel #4400192763

Relocated City Easement location. For the contract with BNSF Filling in the South 50' of 4

